

b) a solvent in an amount up to about 55% by total weight of the treatment material,
wherein said solvent is selected from the group consisting of water, aliphatic hydrocarbons,
aromatic hydrocarbons, alcohols, esters, glycol ethers, ketones, chlorinated solvents and glycols.

REMARKS

First, the Applicant wishes to thank the Examiner for the telephonic interview of February 27, 2003 in which the Examiner and Applicant's Attorney discussed the efficacy of Applicants suggested amendments, which have been submitted herein. After the Examiner's consideration of the Applicant's amendments and remarks corresponding thereto, it was determined that the Applicant's proposed amendments would remove the necessity for the rejections under 35 U.S.C. §§ 102 and 112. See (February 27, 2003 Interview Summary).

The Examiner has rejected Claims 3 – 13 under 35 U.S.C. 112 as allegedly being indefinite. Specifically, the Examiner alleges that that the recitation regarding the claimed range of ratios is confusing. Much of the confusion was generated by the presence of "0" for both endpoints in the range of ratios respective to 3(a)(ii). Applicants have made amendments to the claims which address the Examiner's concerns and serve to more clearly claim the subject matter of the invention. First, The Applicant has added a fourth subsection, "(iv)", to the claim to distinctly claim the combination that recited in 3(a)(i) – (iii). Subsection (iv) now clearly claims a range of ratios in which the combination can be present. Further, the Applicant has amended the claim to recite a range of ratio from 0 – 1 respective to the recited items in 3(a)(ii). During the telephonic interview, the Examiner indicated that such amendment would obviate the

rejection under 35 U.S.C. 112. Support for these amendments can be found throughout the specification, specifically, in the examples. No new matter has been added.

Amendments to claims 7 and 9 have been made to more clearly define the subject matter. No new matter has been added.

Accordingly, the Applicant respectfully submits that the rejection with respect to 35 U.S.C. 112 has been overcome and respectfully requests withdrawal thereof. The text of the rewritten claims marked-up to show the changes relative to the previous version of the claims is attached herewith in Appendix A in accordance with 37 C.F.R. § 1.121(c)(1).

The Examiner has rejected Claims 3-13 under 35 U.S.C. 102 as allegedly being anticipated by Broom et al., U.S. Pat. No. 6,037,469 ("Broom et al."). In response to this rejection, the Applicant has amended Claim 4, and has drafted new Claim 14, to recite an amount of solvent up to about 55%.

For a prior art reference to anticipate claims of a patent, it must expressly or inherently teach the entire claim. A prior art reference must be enabling before it can anticipate. That is, it must provide a description sufficient to teach a person of ordinary skill in the art how to make and use the apparatus or process. To qualify as an anticipatory reference, the reference must place the claimed invention in the possession of the public. Beckman Instruments, Inc. v. Productukter AB, 892 F.2d 1547, 1550, 13 USPQ2d 1301, 1304 (Fed.Cir. 1989).


Broom et al. do not disclose all the elements as recited in the claims. Specifically, Broom et al. neither disclose nor enable the skilled artisan to make a treatment material for use in a method for removing a coating, said coating having a hazardous metal or compound contained therein having the claimed compounds and amount of solvent.

As reflected in the Interview Summary, the rejection under 35 U.S.C. § 102 is overcome,
therefore formal withdrawal thereof is respectfully requested.

Respectfully submitted,

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APPENDIX A

Please find below claims 4, 7, 9 marked-up to show the changes made:

4. (twice amended) A treatment material for use in a method for removing a coating, said coating having a hazardous metal or compound contained therein, said treatment material comprising:

a. at least one of:

_____ i. an alkali metal silicate or alkaline earth metal silicate or portland cement,

ii. an alkali metal or alkaline earth metal phosphate, ~~or~~

iii. an oxide or hydroxide of a magnesium, aluminum, iron, potassium or sodium; wherein (i), (ii) and (iii) are present in a ratio of 10:0:0 to 0:0:1; and or

_____ iv. combinations thereof, wherein said combinations are present in a ratio ranging from 10:0:0 to 0:1:1 respectively; and

b. a solvent in an amount up to about 55% selected from water, aliphatic hydrocarbons, aromatic hydrocarbons, alcohols, esters, glycol ethers, ketones, chlorinated solvents and glycols.

7. (twice amended) A treatment material for admixture with a paint stripper comprising:

a) at least one of an alkali metal silicate, ~~an~~ alkaline earth metal silicate, or portland cement;

b) at least one of an alkali metal oxide, or an alkali metal hydroxide, an alkaline earth metal oxide, or an alkaline earth metal hydroxide; ~~alkaline earth metal silicate, oxide, hydroxide~~
or portland cement; and

c) an alkali metal phosphate; ~~oxide or hydroxide.~~

9. (twice amended) A treatment material for use with an abrasive in removing coatings, said coatings having a hazardous metal or compound contained therein, said treatment material comprising:

a. at least one of an alkali metal silicate, or an alkaline earth metal silicate,
~~oxide or hydroxide,~~ or a portland cement types I to V; and

b. at least one of sodium, calcium phosphate, potassium phosphate, calcium silicate, iron sulfate, or aluminum sulfate. ~~an alkali metal or alkaline earth metal phosphate.~~